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Former SEC Commissioner says Ripple lawsuit will cause 'multi-billion dollar losses to innocent third parties'



by Frank Chaparro

December 23, 2020, 10:14PM EST · 3 min read

The price of XRP has been in a tailspin since news broke that the Securities and Exchange Commission would [sue Ripple for conducting an initial coin offering](#) of the digital asset.

In the wake of the suit, which Ripple has described as an affront to the entire cryptocurrency market, a number of firms have begun cutting services tied to XRP, which Ripple has tried for years to get banks to adopt. The suit was released just a day before SEC chairman Jay Clayton announced he would resign.

Now, a former commissioner of the regulator is crying foul, describing the suit as unprecedented, given the upcoming change in power among the SEC's top ranks and presidential administration next month. In a letter to Clayton obtained by The Block, former SEC commissioner [Joseph Grundfest](#) said: "no pressing reason compels immediate enforcement action."

Grundfest declined to comment further but confirmed the veracity of the letter. It was filed on December 17. A representative of Ripple, who also declined to comment on the letter, said Grundfest is an unpaid advisor for the firm.

"The views of a soon-incoming Administration and Congress as to the regulation of transactions similar to those at issue can differ substantially from current perspectives," Grundfest wrote.

The SEC claims that the sale and issuance of XRP was an unregistered security offering that gave Ripple co-founders Brad Garlinghouse and Chris Larson "the most control" over XRP.

Grundfest, who was appointed as SEC commissioner by Ronald Reagan, said the enforcement action could have a negative impact on holders of XRP, who, in his view, are "innocent third-parties."

"But simply initiating the action will impose substantial harm on innocent holders of XRP, regardless of the ultimate resolution," he wrote. "Upon learning of the proceeding, intermediaries will cease transacting in XRP because of the associated legal risk. The resulting reduction in liquidity will cause XRP's value to decline."

As The Block reported earlier Wednesday, a number of market makers [have cut off liquidity support for XRP](#). And rumors are swirling that Coinbase could cut support of XRP in some capacity.

That would result in an "unprecedented" scenario of billions of dollars of losses resulting from the exodus of intermediary market service providers. From the letter:

"I am aware of no instance in which the simple announcement of a Commission enforcement proceeding has, absent allegations of fraud, misrepresentation, or omission, caused multi-billion-dollar losses to innocent third parties. Creating precedent, and imposing losses, of this sort raises public policy concerns that would benefit from the views of an incoming administration."

He went on to say that XRP and ether should be subject to the same treatment given that the agency has not illustrated a "material distinction between the

operation of Ether and of XRP that is relevant to the application of the federal securities laws."

"Imposing securities law obligations on XRP while leaving Ether untouched raises fundamental fairness questions about the exercise of Commission discretion."

At last check, XRP was trading down more than 39% since news of the suit dropped.